



The Commonwealth of Massachusetts

Department of Revenue

Leverett Saltonstall Building,

100 Cambridge Street, Boston 02204

L. JOYCE HAMPERS
COMMISSIONER

January 4, 1982

[X] is a Massachusetts retail tire dealer that breaks out on its customer invoices an amount representing the federal tire manufacturers' excise. You inquire whether the "sales price" of tires on which the Massachusetts sales tax is based includes such separately-stated amounts.

The Massachusetts sales tax is an excise on retail sales of tangible personal property in Massachusetts at the rate of five per cent of a vendor's "gross receipts" (G.L. c. 64H, s. 2). "Gross receipts" means "the total sales price received by vendors as a consideration for retail sales" (G.L. c. 64H, s. 1(6)).

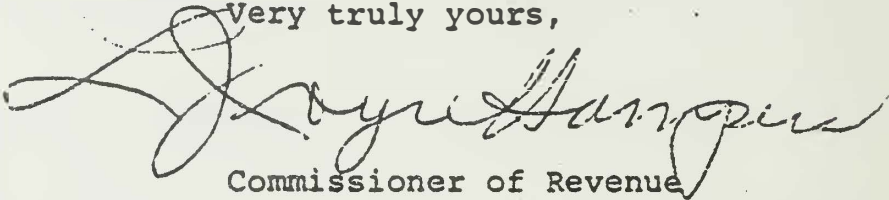
"Sales price" is defined as "the total amount paid by a purchaser to a vendor as consideration for a retail sale," with no deduction on account of "the cost of materials used, labor or service cost, interest charges, losses or other expenses" (emphasis supplied). G.L. c. 64H, s. 1(14).

Section 1(14)(c)(vi) of Chapter 64H provides that the amount of the manufacturers' excise on motor vehicles imposed under Section 4061(a) of the federal Internal Revenue Code ("Code") is excluded in determining the sales price of motor vehicles. There is no provision similarly excluding from the sales price the amount of the federal tire manufacturers' excise imposed under Section 4071(a) of the Code.

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Therefore, the sales price of tires on which the sales tax is based is the entire amount paid therefor, whether or not the retailer breaks out an amount representing the federal tire manufacturers' excise.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Jay H. Harper". The signature is fluid and cursive, with a large initial "J" and "H".

Commissioner of Revenue

LJH:JXD:mf

LR 82-4